IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SMT JUSTICE T.MEENA KUMARI

and
HON'BLE SMT JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1492 of 2000

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 13/09/2000 in WP NO: 19277 OF 1999 on the file of the High Court.)

Between:

1 State of A.P Rep. by its Principal Secretary to Govt., Education Dept., Secretariat, Saifabad, Hyderabad.
2 The Commissioner & Director of Intermediate Education Andhra Pradesh, Hyderabad.

..... APPELLANTS

AND

1 Dr. A. Malathi W/o. Sri A.Krishna Reddy
R/o. Vijayanagar Junior College,Vijaya Nagar Colony Hyderabad.
2 Dr.A.V.Subramanyam S/o.Krishna Murthy
R/o.Vijayanagar Junior College,Vijaya Nagar Colony Hyderabad.
3 G.Seetha Rama Murthy S/o.Yoganand
R/o.Vijayanagar Junior College,Vijaya Nagar Colony Hyderabad.
4 N.V.K.Visweswara Rao S/o.Subba Rao
R/o.Vijayanagar Junior College,Vijaya Nagar Colony Hyderabad.
5 R.D.Deshmukh S/o.Devi Das Rao Deshmukh
R/o.Vijayanagar Junior College,Vijaya Nagar Colony Hyderabad.
6 K.Pruthviraj Goud S/o.Ydayya Goud
R/o.Vijayanagar Junior College,Vijaya Nagar Colony Hyderabad.
7 S.Venkatachalam S/o.Nageswara Rao
R/o.Vijayanagar Junior College,Vijaya Nagar Colony Hyderabad.
8 Dr.S.Anjaneyulu S/o.Koteswara Rao
R/o.Vijayanagar Junior College,Vijaya Nagar Colony Hyderabad.
9 M.V.Rama Rao S/o.Raghavayya

R/o.Vijayanagar Junior College,Vijaya Nagar Colony Hyderabad.

10 B.Maschendranath S/o.Sudharshan Rao
R/o.Vijayanagar Junior College,Vijaya Nagar Colony Hyderabad.

11 Vijaya Nagar Junior College Rep.by its Correspondent
Vijaya Nagar Colony Hyderabad.(R.11 is not necessary party in this appeal)

.....RESPONDENTS

Counsel for the Appellants: GP FOR HIGHER EDUCATION

Counsel for the Respondents: MR.D.V.SITARAMAMURTHY

The Court made the following :

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JUDGMENT(per Hon'ble Smt Justice T. Meena Kumari, J)**:**

Questioning the findings arrived at by the learned Single Judge in writ petition No. 19277 of 1999 dated 13th September 2000 with regard to the entitlement of the petitioners therein for regularisation of their services w.e.f. 1-4-1994 and consequent benefits arising there from, and also a direction to the respondents for consideration of the representation to be made by the petitioners with regard to counting of un-aided service for the purpose of service benefits, the State- respondents therein has preferred the present writ appeal.

The writ petition was filed seeking to declare the action of the respondents in regularizing the services of the petitioners of petitioners 1 to 8 with effect from 1-4-1998 and petitioners 9 & 10 with effect from 1-10-1998 and consequential direction that to absorb them in grant-in-aid posts with effect from 1-4-1994 and they are entitled to count the unaided service for the purpose of pay fixation, seniority and pension from the date of their first appointment.

The State resisted the contention of the petitioners and contended that the petitioners are not entitled to regularization of their services with retrospective effect from 1-4-1994, the date on which the institution was admitted to grant-in-aid. The regularisation as contemplated under GOMs No. 328, Education, (CE.III) dt.15-10-1997 should be only with prospective effect and not retrospective effect and, therefore, when once their services were regularised under GOMs No.328, Education (CE.III), dt. 15-10-1997 with effect from August 1998, they cannot seek regularisation with retrospective effect.

After going into merits of the case, the learned Single Judge, partly allowed the writ petition holding that the petitioners are also entitled for regularization of their services with effect from 1-4-1994 and the consequent benefits arising there from. The learned single Judge further observed that with regard to counting of un-aided service for the purpose of service benefits, the same has to be considered by the Government with reference to the representation to be made by the petitioners in this regard.

Aggrieved by the said findings, the State-respondents therein preferred the present writ appeal.

Assailing the order in the writ petition it has been vehemently contended by the learned Government Pleader appearing on behalf of the appellants that the services of the respondents herein cannot be regularized in view of the fact that the respondents were not appointed through a properly constituted selection committee. It has also contended that even though the college has been admitted to grant-in-aid through G.O.Ms No.375, Education (CE.III-2) Department, dated 20-10-1994, as the services of the respondents were not regularized as on that date, they are not entitled for receiving the grant-in-aid to the posts they are holding w.e.f. 1-4-1994. The learned Government Pleader relied upon G.O.Ms. No. 375, dt. 20-10-1994, wherein the Government issued the above GO admitting the respondents college i.e., Vijayanagar Junior College, Hyderabad, along with sections/posts w.e.f. 1-4-1994 to grant-in-aid and contend that only the posts were admitted to grant-in-aid but not the personnel. Based on the proposals sent by the management, the Government through G.O.Ms No.328, Education, dated 15.10.1997 since regularised the services of the respondents, they are entitled to receive the aid only from 1998 but not retrospectively.

It is further contended that though the posts were admitted to grant-in-aid w.e.f. 1.4.1994, as the petitioners were not admitted to grant in aid as they did not fulfill the requisite conditions as stipulated in G.O.Ms.No.375 Education (CE.III-2) Department, dt.20-10-1994, they are not entitled to get the benefits from 1-4-1994 but from 1.4.998 only. But, however, they were considered for minimum pay scales w.e.f. 7.10.1994 in terms of GOMs.No.362, Education, (CE.III-1) Department, dt.7.10.1994.

Per contra, the learned counsel for the respondents opposed the above contention and argued that even assuming that the appointments of the respondents, which were made prior to the issuance of the regular appointments, were irregular, the same has been relaxed as per the contents made in para-4 of G.O.Ms.No.375 Education (CE.III-2) Department, dt.20-10-1994 and the personnel were also admitted to grant-in-aid. The present college was directed not to make further appointments without following the provisions of Employment Act. The learned counsel also argued that though orders were passed by the authorities on 19-12-1994 granting regular scales of pay as per G.O.Ms.no. 362, Education (CE.III-1) Department dated 7-10-1994, however, their services were regularized basing on G.O.Ms.No. 328, Education (CE.III) Department dated 15-10-1997 with effect from August, 1998 which action of the appellants is illegal and arbitrary and hence the

respondents are entitled for the regularization of their services with effect from 1-4-1994.

Heard both sides.

We had an occasion to go through the conditions laid in G.O.Ms.No.375 Education (CE.III-2) Department, dt.20-10-1994. It is an undisputed fact that by virtue of the above G.O, the college was admitted to grant-in-aid w.e.f. 1.4.1994. It has also been made clear by the department that the institution which has made appointment to the teaching and non-teaching posts in contravention of the rule of communal reservation be admitted to grant-in-aid with effect from 1-4-1994 provided they have fulfilled all other conditions to make them eligible for grant-in-aid. It is also made clear that the appointments for teaching and non-teaching staff made without following the provisions of Employment Act shall be deemed to have been condoned in relaxation of the provisions of the said Act and Rules there under for admission of the said Junior College, if they are otherwise found eligible for admission to aid, and there was a direction to the management that future appointments should be made through the medium of Employment Exchange. It was further made clear that all teaching and non-teaching posts of the aid shall be admitted to aid at the minimum of the respective pay scales. Having regard to the fact that in view of the contents in G.O.Ms No.375 Education (CE.III-2) dated 20.10.1994 the college has been admitted to grant-in-aid and in view of the undisputed fact that remains that the present personnel were working as on the date of issuance of the said Government Order and as their names were figured in the consequential proceedings issued in G.O.Ms No.375 Education (CE.III-2), it has to be observed that the appellant department ought to have granted the scales of pay from 1-4-1994 instead with effect from. 1-4-1998. In view of the clarification issued at para-4 of G.O.M.S. No.375 that the appointments which were made without following the provisions, the conditions deemed to have been condoned and relaxed, the appellant department cannot deny the respondents to enjoy the benefits with effect from 1.4.1994 by regularizing their services with effect from 1.4.1994.

As seen from the material placed before us, the contention of the learned Government Pleader that the appointments of the respondents were made without following due process of selection cannot be accepted because the same was set at right by virtue of the directions issued by the Government through the above said G.O. Under the above circumstance, we have no hesitation to confirm the orders of

the learned single Judge and accordingly it is confirmed.

Writ Appeal is, therefore, dismissed. No order as to costs.

(T. MEENA KUMARI, J)

Dt.14-2-2005

(S. ANANDA REDDY, J)

Kvrk

To

1 The Principal Secretary, Government of A.P

Education Dept., Secretariat, Saifabad, Hyderabad.
2 The Commissioner & Director of Intermediate Education
Andhra Pradesh, Hyderabad.

3 Two CCs to GP for Higher Education, High Court Buildings,
Hyderabad (OUT)

4. Two CD copies.